tion certificate is issued and published under section 316, unless authorized by the Director.

(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28,[1] that the party has not sustained its burden of proving the invalidity of any patent claim in suit or if a final decision in an inter partes reexamination proceeding instituted by a third-party requester is favorable to the patentability of any original or proposed amended or new claim of the patent, then neither that party nor its privies may thereafter request an inter partes reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or inter partes reexamination proceeding, and an inter partes reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

(Added Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4604(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–570; amended Pub. L. 107–273, div. C, title III, § 13202(a)(5), (c)(1), Nov. 2, 2002, 116 Stat. 1901, 1902.)

AMENDMENTS

2002—Pub. L. 107–273, § 13202(c)(1), made technical correction to directory language of Pub. L. 106–113, which enacted this section.

Subsec. (a). Pub. L. 107–273, § 13202(a)(5)(A), substituted ''third-party requester nor its privies'' for ''patent owner nor the third-party requester, if any, nor privies of either''.

Subsec. (b). Pub. L. 107–273, § 13202(a)(5)(B), struck out ''United States Code,'' after ''title 28,''.

### § 318. Stay of litigation

Once an order for inter partes reexamination of a patent has been issued under section 313, the patent owner may obtain a stay of any pending litigation which involves an issue of patentability of any claims of the patent which are the subject of the inter partes reexamination order, unless the court before which such litigation is pending determines that a stay would not serve the interests of justice.

(Added Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4604(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–570; amended Pub. L. 107–273, div. C, title III, § 13202(c)(1), Nov. 2, 2002, 116 Stat. 1902.)

AMENDMENTS

2002—Pub. L. 107–273 made technical correction to directory language of Pub. L. 106–113, which enacted this section.

## PART IV—PATENT COOPERATION TREATY



CODIFICATION

Analysis of chapters editorially supplied. Part IV added by Pub. L. 94–131 without adding analysis for chapters 35, 36, and 37.

Pub. L. 96–517 purported to amend the table of chapters of title 35 by adding after the item for chapter 37 the following: ''38. Patent Rights in Inventions Made with Federal Assistance''. Title 35 did not contain a table of chapters, and section 6(b) of Pub. L. 96–517 and the purported amendment made by it were repealed by Pub. L. 97–256. See chapter 18 (§ 200 et seq.) of this title.

## CHAPTER 35—DEFINITIONS



### § 351. Definitions

When used in this part unless the context otherwise indicates—

(a) The term ''treaty'' means the Patent Cooperation Treaty done at Washington, on June 19, 1970.

(b) The term ''Regulations'', when capitalized, means the Regulations under the treaty, done at Washington on the same date as the treaty. The term ''regulations'', when not capitalized, means the regulations established by the Director under this title.

(c) The term ''international application'' means an application filed under the treaty.

(d) The term ''international application originating in the United States'' means an international application filed in the Patent and Trademark Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

(e) The term ''international application designating the United States'' means an international application specifying the United States as a country in which a patent is sought, regardless where such international application is filed.

(f) The term ''Receiving Office'' means a national patent office or intergovernmental organization which receives and processes international applications as prescribed by the treaty and the Regulations.

(g) The terms ''International Searching Authority'' and ''International Preliminary Examining Authority'' mean a national patent office or intergovernmental organization as appointed under the treaty which processes international applications as prescribed by the treaty and the Regulations.

(h) The term ''International Bureau'' means the international intergovernmental organization which is recognized as the coordinating body under the treaty and the Regulations.

(i) Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

(Added Pub. L. 94–131, § 1, Nov. 14, 1975, 89 Stat. 685; amended Pub. L. 98–622, title IV, § 403(a), Nov. 8, 1984, 98 Stat. 3392; Pub. L. 99–616, § 2(a)–(c), Nov. 6, 1986, 100 Stat. 3485; Pub. L. 106–113, div. B, § 1000(a)(9) [title IV, § 4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A–582; Pub. L. 107–273, div. C, title III, § 13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)